

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
AMANDA DODDS
4 Legal Analyst
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2141
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues
12 Against:

Case No. **2010 - 139**

13 **MARIBEL CHAIDEZ SANCHEZ**
14 **2854 A Street**
San Diego, CA 92102

STATEMENT OF ISSUES

15
16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
20 her official capacity as the Interim Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about April 27, 2009, the Board of Registered Nursing, Department of
23 Consumer Affairs received an application for a Registered Nurse License from Maribel Chaidez
24 Sanchez (Respondent). On or about April 20, 2009, Maribel Chaidez Sanchez certified under
25 penalty of perjury to the truthfulness of all statements, answers, and representations in the
26 application. The Board denied the application on July 22, 2009. On or about July 28, 2009, the
27 Board received Respondent's appeal of the application denial.

28 ///

JURISDICTION

3. This Statement of Issues is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2736 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

5. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

....

6. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or

(3) Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he has been convicted of a felony if he has obtained a certificate of rehabilitation under Section 4852.01 and following of the Penal Code or that he has been convicted of a misdemeanor if he has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for such license.

7. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

• • • •

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

• • • •

REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

///

///

1 9. California Code of Regulations, Title 16, section 1445 states:

2 (a) When considering the denial of a license under Section 480 of the code, the
3 board, in evaluating the rehabilitation of the applicant and his/her present eligibility
4 for a license will consider the following criteria:

5 (1) The nature and severity of the act(s) or crime(s) under consideration
6 as grounds for denial.

7 (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s)
8 under consideration as grounds for denial which also could be considered as grounds
9 for denial under Section 480 of the code.

10 (3) The time that has elapsed since commission of the act(s) or crime(s)
11 referred to in subdivision (1) or (2).

12 (4) The extent to which the applicant has complied with any terms of
13 parole, probation, restitution, or any other sanctions lawfully imposed against the
14 applicant.

15 (5) Evidence, if any, of rehabilitation submitted by the applicant.

16

17 **FIRST CAUSE FOR DENIAL OF APPLICATION**

18 **(February 23, 2004 Criminal Conviction for DUI on February 22, 2004)**

19 10. Respondent's application is subject to denial under sections 480, subdivision (a)(1)
20 and 2736 of the Code in that she was convicted of a crime that is substantially related to the
21 qualifications, duties, and functions of a registered nurse. The circumstances are as follows:

22 a. On or about February 23, 2004, in a criminal proceeding entitled *People of*
23 *the State of California v. Maribel Chaidez Sanchez*, in Los Angeles County Superior Court case
24 number 4MT02033, Respondent was convicted on her plea of nolo contendere to violating
25 Vehicle Code section 23152, subdivision (b), driving with a blood alcohol content (BAC) of 0.08
26 percent or higher, a misdemeanor.

27 b. As a result of the conviction, on or about February 23, 2004, Respondent
28 was sentenced to 36 months summary probation, 48 hours in the county jail (with credit for 48
hours), completion of a 3-month First Offender program, enroll in an AB-541 program, standard
alcohol conditions, and payment of fines, fees, and restitution in the amount of \$1,642.00.

///

///

1 c. The facts that led to the conviction were that on or about February 22, 2004,
2 Respondent was arrested by the California Highway Patrol (Los Angeles) for driving under the
3 influence of alcohol. Respondent tested with a BAC of .10 percent.

4 **SECOND CAUSE FOR DENIAL OF APPLICATION**

5 **(June 29, 2005 Criminal Conviction for DUI on May 18, 2005)**

6 11. Respondent's application is subject to denial under sections 480, subdivision (a)(1)
7 and 2736 of the Code in that she was convicted of a crime that is substantially related to the
8 qualifications, duties, and functions of a registered nurse. The circumstances are as follows:

9 a. On or about June 29, 2005, in a criminal proceeding entitled *People of the*
10 *State of California v. Maribel Chaidez Sanchez*, in San Diego County Superior Court case
11 number M964835, Respondent was convicted on her plea of guilty to violating Vehicle Code
12 section 23152, subdivision (a), driving under the influence of alcohol, a misdemeanor.
13 Respondent admitted that she was previously convicted of a violation of Vehicle Code section
14 23152, subdivision (b) on February 23, 2004 (as described in paragraph 10, above).

15 b. As a result of the conviction, on or about June 29, 2005, Respondent was
16 sentenced to five years summary probation, 365 days in the custody of the sheriff (suspended), 96
17 hours in the county jail (with credit for 24 hours), completion of a Multiple Offender Conviction
18 Program, completion of a MADD Impact Panel, standard alcohol conditions, license restriction,
19 and payment of fines, fees, and restitution in the amount of \$1,810.

20 c. The facts that led to the conviction were that on or about the early morning
21 hours of May 18, 2005, Respondent was observed by a San Diego State University police officer
22 driving a vehicle without its headlights in the vicinity of the campus. When Respondent drove
23 past the officer, she turned on her headlights. The officer activated his overhead lights and
24 conducted a traffic stop on Respondent. Upon contact with Respondent, the officer detected the
25 odor of an alcoholic beverage coming from inside the vehicle; Respondent's eyes were bloodshot
26 and watery, and her speech was slurred. Respondent could not complete the field coordination
27 tests as explained and demonstrated by the officer. Respondent submitted to two preliminary
28 alcohol screening tests resulting in a BAC of 0.182 and 0.171 percent respectively. Based on her

1 objective symptoms of intoxication, her failure to complete the field coordination tests, and her
2 unsafe driving, Respondent was arrested for driving under the influence of alcohol. A check of
3 Respondent's driver's license revealed her license was suspended for a previous DUI conviction.
4 Respondent was transported to the university police headquarters where she submitted two more
5 breath samples which tested with a BAC of 0.15 percent.

6 **THIRD CAUSE FOR DENIAL OF APPLICATION**

7 **(June 24, 2008 Criminal Conviction for DUI on January 1, 2008)**

8 12. Respondent's application is subject to denial under sections 480, subdivision (a)(1)
9 and 2736 of the Code in that she was convicted of a crime that is substantially related to the
10 qualifications, duties, and functions of a registered nurse. The circumstances are as follows:

11 a. On or about June 24, 2008, in a criminal proceeding entitled *People of the*
12 *State of California v. Maribel Chaidez Sanchez*, in San Diego County Superior Court case
13 number C277343, Respondent was convicted on her plea of guilty to violating Vehicle Code
14 section 23152, subdivision (a), driving under the influence of alcohol, a misdemeanor.
15 Respondent admitted that she was previously convicted of a violation of Vehicle Code section
16 23152, subdivision (b) on February 23, 2004 (as described in paragraph 10, above), and
17 previously convicted of a violation of Vehicle Code section 23152, subdivision (a) on June 29,
18 2005 (as described in paragraph 11, above).

19 b. As a result of the conviction, on or about June 24, 2008, Respondent was
20 sentenced to five years summary probation, 150 days in the custody of the sheriff in the Short
21 Term Work Furlough program, , with credit for 1 day. The court sentenced Respondent to an
22 additional 215 days in custody that were stayed pending successful completion of probation.
23 Respondent was further ordered to complete a Multiple Offender Conviction Program,
24 completely abstain from alcohol and not be in places where alcohol is the main item for sale for
25 the duration of probation, and additional alcohol conditions. Respondent's driver's license was
26 revoked for three years. Payment of fines, fees, and restitution in the amount of \$2,674 was also
27 ordered. Respondent did not enroll in the 18-month "2nd Offender Program" until February 20,
28 2009.

1 c. The facts that led to the conviction were that on or about the early morning
2 hours of January 1, 2008, two California Highway Patrol officers patrolling Highway 94 in San
3 Diego County observed a vehicle, driven by Respondent, drifting from lane to lane in a serpentine
4 manner. The officers moved behind Respondent's vehicle and activated their emergency lights to
5 initiate an enforcement stop. Respondent did not react to the lights. The officers activated their
6 siren; Respondent slowly reacted to the siren and pulled off the highway. Respondent was the
7 sole occupant of the vehicle. The officer checked her driver's license and discovered it was
8 suspended for a previous DUI conviction. The officer noted the odor of an alcoholic beverage on
9 Respondent's breath, her speech was slow and slurred, and her eyes were red and watery.
10 Respondent denied having consumed alcohol. Respondent failed to satisfactorily complete the
11 field sobriety tests as explained and demonstrated by the officer. Respondent submitted to a
12 preliminary alcohol screening test resulting in two readings of .118 percent BAC. Respondent
13 was arrested and submitted to additional breath tests at the El Cajon Police Department. The
14 results were .10/.10 percent BAC.

15 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

16 **(Commission of Acts, Which if Done by a Licentiate,**

17 **Would be Grounds for Suspension or Revocation of License)**

18 13. Respondent's application is subject to denial under sections 2736 and 480,
19 subdivision (a)(3) of the Code in that Respondent's three convictions for driving under the
20 influence of alcohol, as described in paragraphs 10-12, above, would have constituted grounds for
21 suspension or revocation of her license had Respondent been a licentiate at the time the acts were
22 committed.

23 ///

24 ///

25 ///

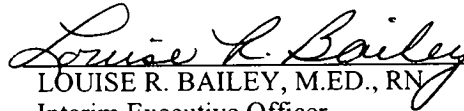
PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Denying the application of Maribel Chaidez Sanchez for a Registered Nurse License;
2. Taking such other and further action as deemed necessary and proper.

DATED: _____

9/15/09


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SD2009702367